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Patent – 09-683,599
Attorney Docket: Visual-Dbase

ATTORNEY DOCKET NO. VisualDatabase/SCH
Serial No.: 09/683,599

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Scott C. Harris	Group Art Unit 2157
Appl. No.	:	09/683,599	
Filed	:	January 23, 2002	
For	:	VISUAL DATABASE FOR ONLINE TRANSACTIONS	
Examiner	:	S. Halim	

Pre-Appeal Brief Request For Review
(Request For Appeals Conference)

United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above referenced

application. No amendments are being filed with this request. However, this

request is being filed with a notice of repeal.

The attached request summarizes the reasons for review in five pages or

less, as required.

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/SCH/

(Scott C. Harris Reg #32030)

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Claims 1-20 stand rejected under 35 USC 103 as allegedly being unpatentable over Crill. With all due respect, this rejection does not meet the patent office's burden of providing a prima facie showing of unpatentability, and actually attributes features to the Crill reference that are not actually taught by the Crill reference.

Crill shows that searching an image database for images is known in the art. Crill does not, however, render obvious <u>every possible use or application</u> of the basic science described therein. It is well established that a reference renders obvious only the specific subject matter disclosed therein. Further applications of this science are patentable. This follows the well established public policy of encouraging Patentees to disclose new uses of known science in a patent application.

Applicant never denied that Crill shows the <u>basic science</u> of searching databases for images. However, Crill taught nothing about the specific claimed techniques of using an image database search for "purchasing of items of which meet criteria specified in said image information" (claim 1) or other limitations including price information as defined by claims 10 and 17. The rejection has taken the position that since Crill describes databases of images being used by companies that develop and sell products, that everything that could possibly be used as part of developing and selling products becomes obvious. This, however, is based on hindsight.

Crill says not one word about using this technique for finding items to be purchased. Moreover, the claimed technique may allow finding items to be

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purchased that are not easily susceptible of being described any other way. See the specification and specifically the specification's description of the example in figure 3.

Claim 1 defines a system with a client and server, where image information is used to search the database associated with the server "for items to be purchased which meet criteria specified in said image information". This latter quoted feature is not taught or suggested by Crill. Crill teaches searching images over the Internet or on databases. Crill never teaches using the image search information to find "items to be purchased". The rejection alleges that this is an obvious modification of Crill, but this is respectfully suggested to be incorrect. Crill's background teaches nothing about searching that database for items to be purchased. Simply because the items could be purchased does not suggest searching for items to be purchased. Crill does teach applications of the system, such as looking for copyrighted information on the Internet. Crill teaches nothing about searching the database "for items to be purchased". The specific advantage mentioned in the specification would not be obtained from anything taught by Crill. With all due respect, the rejection reads much more into Crill then it actually discloses.

Nothing in Crill teaches anything about searching the database for items to be purchased, as claimed. Crill only teaches using his system for detecting copyright infringement. It is certainly not obvious, and it is based on hindsight, to extend this to searching "for items to be purchased".

In item 23, the rejection alleges that items on page 5 of the arguments are

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not claimed. This is not understood. Page 3 of the arguments describes 1) the scope and contents of Crill, 2) looking for items to be purchased, which is an express limitation of claim 1, and 3) (in the final paragraph), *advantages* of the system as claimed. Everything on page 3 is clearly supported by at least one claim.

Claim 3 (and others) defines exclusion information to exclude from the search results. The rejection reads this on Crill's cropping, and the rejection states that "cropping is the same as excluding information from an image". See item 24 on page 8. However, this emphasizes the difference. The claimed exclusion information is exclusion information to exclude from the search results. Crill teaches excluding from the image, not excluding from the search results. Cropping the image is entirely different from forming exclusion information "to exclude from the search results". Claim 3 should hence be additionally allowable.

Claim 4 specifies selecting a more important image portion and weighting the search results according to that more important image portion. Crill does teach masking to form a part of the image. However, claim 4 requires weighting the search results according to the more important image portion. The exclusion which is done by Crill's masking would not do any weighting, it would do entirely exclusion.

Claim 9 incorporates the price information. Nothing in Crill teaches anything about price information. This further emphasizes the distinctions over Crill which says not one word about price information. This feature is not

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remotely suggested by Crill. The contention is based on hindsight. Nothing in Crill teaches anything about price information. The statements in item 26 of the rejection about "features of the secondary reference" are not understood, since no secondary reference has been cited.

Claim 10 defines entering image information, using the image information to search database information, and returning search results including price information associated with items in the search result. Crill is entirely devoid of any such thing. Crill teaches nothing about returning price information as part of the search result. In item 27 of the office action, the patent office states that this is simply obvious. With all due respect, there is no suggestion of price information in Crill, and the conclusion of obviousness is based on hindsight.

Claim 12 should be allowable for analogous reasons to those discussed above with respect to claim 4. Claim 13 should be allowable for similar reasons to those of claim 3.
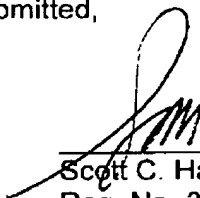
Claim 17 defines a computer that searches a database that includes price information and returns search results that match the searching image information and price information. As stated above, this feature, including search results with "price information" is not taught or suggested by the cited Crill prior art. With all due respect, the rejection of this feature is based entirely on hindsight.

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Reversal of the rejection is respectfully requested.

Respectfully submitted,

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